

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shannon Hollie,

Case No. 22-cv-314 (KMM/LIB)

Plaintiff,

v.

ORDER

Essentia Health Moose Lake Clinic;
Benjamin Marsh, Medical Doctor,
Essentia Health; and Jane/John Does
(Unknown Individuals);

Defendants.

On December 22, 2023, the Court entered an Order adopting the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois and dismissing Plaintiff's claims. Judgment was entered on December 27, 2023. Plaintiff filed a Notice of Appeal and this matter is before the Court on his Motion for Leave to Proceed In Forma Pauperis ("IFP") on Appeal. Pl.'s IFP Mot., Doc. No. 154.

Mr. Hollie is detained at the Minnesota Sex Offender Program ("MSOP") facility in Moose Lake, Minnesota, but he is not a "prisoner" subject to the provisions of the Prison Litigation Reform Act that require submission of inmate account statements, payment of an initial partial appellate filing fee, and ultimate payment, in installments, of the full filing fee. 28 U.S.C. § 1915(a)(2), (b)(1), and (b)(2); *Kolocotronis v. Morgan*, 247 F.3d 726, 728 (8th Cir. 2001); *Housman v. Ludeman*, No. 11-cv-3035 (PAM/JFD), 2022 WL 5196107, at *2 (D. Minn. Oct. 5, 2022). Mr. Hollie's IFP motion and supporting documents

demonstrate that he is financially eligible for IFP status.¹ The Court finds that he qualifies for IFP status on appeal.

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3); *see also* Fed. R. App. P. 24(a)(3). An appeal is taken in good faith and is not frivolous when the claims raised on appeal have an arguable basis in fact or law. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Here, Mr. Hollie seeks to appeal the Court’s Order granting the Defendants’ motions for summary judgment and argues that the Court erred in applying the Americans with Disabilities Act and in dismissing his claims under federal law. Notice of Appeal at 2, Doc. No. 157. Although the Court is satisfied that Mr. Hollie’s claims were properly resolved at the summary judgment stage, his appeal is not frivolous as that term has been defined by the Supreme Court. Therefore, Mr. Hollie’s appeal is considered to be taken in good faith for purposes of 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), and the Court grants his IFP application.

Accordingly, **IT IS HEREBY ORDERED THAT** Plaintiff’s Motion for Leave to Proceed In Forma Pauperis on Appeal, Doc. No. 154, is **GRANTED**.

Date: February 6, 2024

s/Katherine Menendez

Katherine Menendez
United States District Judge

¹ Mr. Hollie’s application to proceed IFP in this District Court proceeding was granted. Order, Doc. No. 8.